

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

JULY 19, 2004

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
URBANDALE, IOWA

TABLE OF CONTENTS

Call to Order	1
Members Present.....	1
Members Absent	1
Adoption of Agenda.....	1
APPROVED AS PRESENTED	1
Approval of Minutes	1
APPROVED AS AMENDED	1
Director's Report	2
INFORMATIONAL ONLY	2
Final Rule: Chapter 32 “Animal Feeding Operations Field Study”	2
Appointment	4
Tom Newton	4
Public Participation.....	7
Dorothy Franek	7
James Berge	7
Sam Carney	7
Kevin Shilling	8
Roger Zylstra	8
Betty Millard.....	8
Calvin Rozenboom.....	8
Leonard Baumhover.....	8
Barbara Kalbach.....	8
Jeff Reuder	9
LeRoy Merk.....	9
Gary Larsen.....	9
Sharlene Merk.....	9
Donna Larson.....	9
Dave Struthers.....	10
Norma Hauck	10
Bob Uetz	10
Larry Ginter	10
Tom Rateford.....	10
Viola Faust.....	10
Betty Little	10
Ronald Reedy.....	11
Scott Becker.....	11

Tom Draur.....	11
Elmer Swanson	12
Verdell Johnson	12
George Naylor.....	12
Ron Tianer	12
Gwen McClintic.....	13
Dick Bird.....	13
Rich Leopold.....	13
Ferol Wegner	13
Wendy Wintersteen.....	14
Mary Carter	15
Kathleen Johnson.....	15
Stacy Noe	16
Mike Blaser.....	16
Lew Olson.....	16
Final Rule: Chapter 32 “Animal Feeding Operations Field Study” Continued.....	19
APPROVED AS PRESENTED	20
Final Rule – Amend Iowa Administrative Code 567—Chapter 118, “Discarded Appliance Demanufacturing”	20
APPROVED AS PRESENTED	21
Final Rule – Adopt new IAC 567—Chapter 122 “Cathode Ray Tube Device Recycling”	21
APPROVED AS PRESENTED	21
Final Rule – Rescind IAC Chapters 567-215 “Waste Tire Management County Grant Program,” 567-216 “Regents Tire-Derived Fuel Program,” and 567-217 “Waste Tire End-User Incentive Program”	22
APPROVED AS PRESENTED	22
State of Iowa Public Drinking Water Program - 2003 Annual Compliance Report.....	23
INFORMATIONAL ONLY	23
Proposed Contested Case Decision – Natural Pork Production II, LLP.....	23
NO ACTION TAKEN	24
Proposed Contested Case Decision – Richard Juhl	24
NO ACTION TAKEN	24
Monthly Reports	24
INFORMATIONAL ONLY	28
General Discussion	28
Next Meeting Dates	29
Adjournment	29

MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Vice-Chair Jerry Peckumn at 10:00 a.m. on Monday, July 19, 2004, in the Ingram Office Building, Urbandale, Iowa.

MEMBERS PRESENT

Lisa Davis Cook,
Lori Glanzman
Kathryn Murphy
Francis Thicke
Terrance Townsend
Jerry Peckumn, Vice Chair
Heidi Vittetoe, Secretary
Donna Buell

MEMBERS ABSENT

Darrell Hanson, Chair

ADOPTION OF AGENDA

Motion was made by Lori Glanzman to approve the agenda as presented. Seconded by Terry Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Terry Townsend mentioned that a change on his vote should be corrected from nay to aye concerning the Manure Management Plans. Page 20 of the June 21 EPC minutes.

Motion was made by Terry Townsend to approve the minutes as amended. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS AMENDED

DIRECTOR'S REPORT

Jeff Vonk mentioned that the Department has started budget planning for FY '06. The Governor has laid out a different process for budget development. This process will help the Governor target agencies to buy results for government planning invested. All state agencies have been directed to begin working on creating a priority based inventory of all the responsibilities, programs and activities of each department and then present it to the Governor's Staff. Our first round of offers are due mid-October. This process was used in the State of Washington to help better prioritize state resources for highest priority programs.

The Department has given careful consideration to all of the public comments submitted regarding the proposed rule pertaining to public policy and how it will effect our citizens economically, environmentally and public health. I urge the Commission to pay attention to every detail of what this rule proposes and what it will and will not do. I think this rule is a good first step.

INFORMATIONAL ONLY

FINAL RULE: CHAPTER 32 "ANIMAL FEEDING OPERATIONS FIELD STUDY"

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The Commission will be asked to approve amendments to 567 Iowa Administrative Code Chapter 32 "Animal Feeding Operations Field Study."

Iowa Code section 459.207 provides direction to the department regarding the development of comprehensive plans and programs to regulate atmospheric emissions from animal feeding operations (AFOs). The department must conduct a field study where concentrations of ammonia, hydrogen sulfide and odors are measured. The department may develop comprehensive plans and programs if the field study demonstrates to a reasonable degree of scientific certainty that airborne pollutants emitted by an animal feeding operation are present at a separated location at levels commonly known to cause a material and verifiable adverse health effect.

This rulemaking establishes an animal feeding operations "health effects value" (HEV) and a "health effects standard" (HES) for hydrogen sulfide. The HEV represents a level commonly known to cause a material and verifiable adverse health effect. The department proposes a level for hydrogen sulfide of 30 parts per billion (ppb) averaged over 1-hour. The HES represents a level to determine if the baseline data from the field study data indicates a need to develop plans and programs to mitigate hydrogen sulfide emissions from animal feeding operations. The department proposes a level of 30 parts per billion (ppb) daily maximum 1-hour average, not to

be exceeded more than 7 days in one year. These values are applicable to animal feeding operations only. The HEV is based on recommendations from the Iowa Department of Public Health and standards from the State of California.

This rulemaking also establishes an Iowa Air Sampling Manual that will be incorporated by reference in Chapter 32 of Iowa Administrative Code [567]. This manual contains monitor siting requirements, data handling procedures, approved monitoring methods and equipment, quality assurance requirements, and requirements for public availability of data required to implement the HEV and HES for hydrogen sulfide. The manual will not be published in the Iowa Administrative Code, but will be available from the department upon request.

Iowa Code section 459.207 is structured such that the department has to establish the level of an airborne pollutant commonly known to cause a material and verifiable adverse health effect and demonstrate that the level is being exceeded at a separated location before plans and programs to regulate emissions of airborne pollutants can be developed. This mandated sequential approach to regulating air emissions from animal feeding operations does not allow for the development and notice of a rulemaking that would thoroughly outline proposed plans and programs to regulate air emissions from animal feeding operations. Proposed plans and programs, if necessary, will be the subject of future rulemakings. The department will regulate hydrogen sulfide emissions from animal feeding operations by species type if the comparison of the field study monitoring data for the animal species in question to the HES established by this rulemaking triggers the need for plans and programs.

The Environmental Protection Commission has statutory authority to establish a health effects value on the basis of providing air quality protection necessary to safeguard the public health and welfare pursuant to the provisions of Iowa Code section 455B.133 and Iowa Code section 459.207.

Public hearings on the standards were held in Spencer, Atlantic, Mason City, Davenport, and Clive. Responses to both the oral and written comments received at these hearings and to written comments received during the public comment period are provided in the attached responsiveness summary.

In response to public comment, the department has made the following modifications to the draft rule presented in the Notice of Intended Action to obtain the current form of the rule:

- **General.** The rule has been reorganized to both improve clarity and define the scope. Specifically, this includes:
 - a. Changing the title of Chapter 32 from “Health Effect Value (HEV)” to “Animal Feeding Operations Field Study”.
 - b. Removing original text in 32.1(1), 32.1(2), and 32.2(1) and inserting revised text in 32.1, 32.3 and 32.4 that clarifies the purpose of the field study and more clearly defines the conditions necessary to trigger comprehensive plans and programs.
 - c. Removing original text in 32.2(2) that references December 1, 2004.

- **Definitions.** The definitions will be placed into Chapter 32 instead of Chapter 20 of the Iowa Administrative Code [567]. The definitions of health effects standard and health effects value remain as presented in the NOIA but the definition of separated location has been changed to reference Iowa Code sections 455B.134, 459.202, and 459.204 in order to include all separated locations defined in statute.
- **HEV.** The level of the HEV was changed to 30 ppb (1-hour average) to directly relate the HEV to public health data. The Iowa Air Sampling Manual was modified accordingly.
- **HES.** The level of the HES was changed to 30 ppb to reflect changes in the HEV. The Iowa Air Sampling Manual was modified accordingly. The provision allowing seven days where the HEV is exceeded before a violation of the HES occurs was retained.
- **Monitor Siting.** The Iowa Air Sampling Manual was revised so that sites eligible for comparison with the HES must meet standard EPA siting criteria, are located within 100 meters of a separated location, and are outside of the legally required separation distance.

(A copy of this presentation can be located in the Department's Record Center.)

APPOINTMENT

TOM NEWTON, Director of the Division of Environmental Health with the Department of Public Health(DPH) gave a Powerpoint Presentation regarding the health issues of the proposed standard.

DPH's Recommendation to DNR

A health effects standard for hydrogen sulfide should be established at 30 ppb daily maximum 1-hour average, not to be exceeded more than 7 times in one years at a separated location.

How was the DPH proposal derived?

DPH Scientists:

- Reviewed available scientific literature on the health effects of hydrogen sulfide
- Evaluated EPA's reference concentration (RfC) and ATSDR's minimum risk level for hydrogen sulfide.
- Examined standards for hydrogen sulfide established by other states.

Why 30 ppb?

ATSDR and EPA

Neither agency has established regulatory levels for hydrogen sulfide.

- ATSDR has established minimum risk levels (MRLs) for hydrogen sulfide to address acute and intermediate exposures, 1-14 days and 15-364 days respectively.
- EPA has established a reference dose concentration (RfCs) for hydrogen sulfide to address chronic exposures, lifetime or 24 hrs./day for 70 years.

ATSDR MRLS

MRLs are estimates of the daily human exposure to a hazardous substance that is not likely to cause adverse (non-cancerous) health effects over a specified time – acute and intermediate.

- Hydrogen sulfide acute MRL: 70 ppb, 1-14 days exposure
- Hydrogen sulfide intermediate MRL: 30 ppb, 15-364 days of exposure

EPA RfC

RfCs are estimates of a continuous inhalation exposure to the human population that is likely to be without appreciable health risks during a lifetime (24 hrs./day for 70 years)

- RfC for hydrogen sulfide: 0.7 ppb

Concentrated Animal Feeding Operations Air Quality Study

The authors of the joint university report based their recommendations “on a combination of data gained from relevant regulations in other states and recommendations made by several public health related agencies, including the World Health Organization, the US Environmental Protection Agency (EPA), and the US Agency for Toxic Substances and Disease Registry (ATSDR)” (p.176)

Report's Recommendation

The joint report recommended two standards for hydrogen sulfide:

- “15 ppb at the residence for a one-hour average measure and 70 ppb at the property line. No more than seven exceedences would be allowed per calendar year (with notice to the residents and DNR).” (p. 176)

Uncertainty/Safety Factor

- In establishing the report's recommended standard for hydrogen sulfide measured at separated locations, the authors used an uncertainty/safety factor of 2 to account for multiple chemical exposure (H₂S and NH₃).
- Essentially, the authors divided ATSDR's quantitative value of the intermediate MRL (30 ppb) by 2.

DPH Analysis

Applying safety factors to account for additive health effects when exposed to various chemicals can only be used when the chemicals have the same mode of action and elicit the same effect i.e. the same mechanism of toxicity (Guidelines for the Health Risk Assessment of Chemical Mixtures, US EPA, 2002)

Although both hydrogen sulfide and ammonia can affect the respiratory tract at certain levels, they differ in their mechanisms of toxicity.

Mechanisms of Toxicity

- Hydrogen sulfide: compromises cell respiration through inhibiting action of cytochrome c oxidase, an enzyme in every cell.
- Ammonia: strongly reacts with water in cell tissue according to the chemical reaction, $\text{NH}_3 + \text{H}_2\text{S} \rightarrow \text{NH}_4\text{OH}$, releasing heat and causing thermal injury to cell tissue.

- Conclusion: Applying the additional safety factors of 2 to the intermediate MRL is not necessary.

Why a daily maximum 1-hour average?

Human Health Studies

ATSDR Epidemiological Study in Dakota City and South Sioux City, Nebraska

- Evaluated ambient hydrogen sulfide and total reduced sulfur concentrations and visits to hospitals for respiratory problems from 1998 to 2000.
- An association was made between visits to the hospital for respiratory impacts be sensitive populations and high levels of hydrogen sulfide. Above 30 ppb was classified as a high level of hydrogen sulfide. Utilized 30-minute averages.

Rational of Using Daily One-Hour Average Maximums

Daily 1-Hour Average Maximums

- Recommended in the joint university report
- Recent health studies indicate that people exposed to elevated levels of hydrogen (greater than or equal to 30 ppb) for 1 hour may experience health effects.
- A good indicator of the highest likely concentration of exposure throughout the day.

Why allow 7 exceedences?

Rationale for 7 exceedences

As indentified in the joint university report:

- Accounts for variations throughout the year
- Recognizes there may be exceedences during normal operations (agitating pits and storage basins, land application).

Other State's Standards

Minnesota and Missouri – 30 ppb measured on 30 minute averages (can exceed twice per 5 days) and 50 ppb measured on 30 minute averages (can exceed twice per year).

Nebraska - 10,000 ppb measured on 1 minute averages, 100 ppb measured on 30 minute averages, and 5 ppb measured on a 30 day average. NE measures Total Reduced Sulfur (TRS), rather than H₂S.

In Conclusion

DPH proposal – 30 ppb, daily 1-hour maximum averages, not to be exceeded more than 7-times per year at separated locations.

- Supported by a recent human health study
- Good measure of maximum daily exposure
- Accounts for variations throughout year in concentrations of H₂S due to normal operations
- Consistent with surrounding states.

PUBLIC PARTICIPATION

DOROTHY FRANEK, from Red Oak, Iowa urged the Commission to keep the original proposed hydrogen sulfide standard of 15 ppb, which was recommended by the joint University study. The study is current, sound and based on the best science available. The DNR's decision to back away from the joint University study and to repropose a standard of 30 ppb sends a clear message to rural Iowans that politics is more important than public health. Please vote for clean air and water.

JAMES BERGE, representing the Iowa Farmers Union expressed this thanks to the Commission for looking into these health related issues. We do need a strong health ordinance in Iowa.

SAM CARNEY, president of the Iowa Pork Producers Association said that he thinks it's important to establish what these rules should not be intended to do:

1. The measurements for hydrogen sulfide are not an odor measurement. Odor and hydrogen sulfide levels are independent of each other. You can have high odor and low hydrogen sulfide or high hydrogen sulfide and low odor. The same is true of Ammonia.
2. This is a new program. Most farmers don't know what monitoring would show for their farms. Therefore, farms that may exceed the levels should not be viewed as showhow skirting their environmental responsibilities. Farmers want their farms to have low hydrogen sulfide levels. We want clean air for our families, neighbors, employees and the animals we raise.
3. The level and duration should be about human health. Thresholds should not be set based on how many violations can or can't be found. In fact, it would be great news if few or no violations were ever found. No one should take pleasure in finding violations if the level and duration is about health.
4. The levels found on one farm should not be the assumed levels of other farms. Many farms use wind breaks and other management plans to reduce things like odor. Thankfully, it appears as though the department may take this into consideration when they develop remediation plans. This is a positive step which will continue to encourage and reward non-monitored farms that currently use pro-active management techniques.

Once again, this is a first step for air quality regulation in agriculture. And many farmers worry about the unknowns of air quality monitoring. We've had many farmers attend the public hearings on these rules where they expressed their concerns. Just like everyone else, sometimes the fear of the unknown is greater than the fear of the known.

Finally, I think the department should look for air monitoring to help guide policy makers for locating new barns in the future. We should be able to answer the question, "Are the separation distances adequate in Iowa?" Once again, it would be great news if we could tell Iowans..."Yes, the separation distances are adequate".

(A copy of the comments can be located in the Department's Record Center.)

KEVIN SHILLING, farmer from Greenfield, Iowa said that Iowa going with a hydrogen sulfide standard of 30 ppb (1-hour average) compared to other states at 30 ppb (half-hour average). This does not balance out to me. We should be setting a higher standard. A standard that does not target only the livestock industry, but all industries. It should also include an odor and ammonia standard.

ROGER ZYLSTRA, livestock farmer from Kellogg, Iowa said that he has not received any complaints from nearby neighbors of odor or bad air quality. I am opposed to the DNR's standard of 30 ppb (1-hour average) for hydrogen sulfide as a public health standard without completing the field study of livestock air emissions to determine if there truly is a health risk from livestock facilities.

BETTY MILLARD, from Silver City said that the citizens of Silver City have been living in contamination since the release of approximately 2000 gallons of gasoline from Farm Service Coop Gas Station in 1989 and reported to IDNR in 1990. It was subsequently closed in 2001 after having problems with the underground storage tanks on the property. It was permanently closed in 2002. It's unfair that this has not been taken care of. How long do we have to live with this contamination?

(A copy of the comments and the Silver City LUST site files can be located in the Department's Record Center.)

CALVIN ROZENBOOM, representing Iowa Farm Bureau members said that they do not support the proposed rulemaking to regulate hydrogen sulfide at 30 ppb over a 1-hour average for livestock operations. Over 1,800 people agree against this rulemaking. At the six public hearings held across the state, there was a 4 to 1 ratio speaking out against this rulemaking. We need to set the hydrogen sulfide standard at a level that is known and proven to protect the public health. The proposed standard is much too stringent and we prefer a more relaxed schedule to let livestock operate in Iowa.

LEONARD BAUMHOVER, ICCI member said that he lives 2,000 feet east from a hog confinement and 1,300 feet south from another one. I believe it's your duty to protect the individuals around these buildings. The University Report stated that 15 ppb is hazardous to your health.

BARBARA KALBACH, ICCI member said that she is a farmer from Dexter, Iowa and is seeking standards that will help the industry part of livestock production. That segment does not always include individual family farm operations. We are asking that industry be accountable and responsible for the bi-products of their processes. The professors and scientists that put the University report together have studied, tested and have reached conclusions. Their conclusions were reviewed by national and international scientists. Not one of the twenty-seven university scientists who have signed off on this study has backed away from their recommendations. The Governor and the DNR have. They will compromise, we will not. By law

any measurement for hydrogen sulfide must be taken at the residence not the property line as it is in most states. That's why 15 ppb is a reasonable level.

JEFF REUDER, livestock farmer from Sioux County said that he has concerns about the 1-hour average in the seven day limits. Because of the concentration levels in some of the building sites in our area, they can set up a monitor in one area and a guy at another site could be applying manure and it would be reading more than one site at a time. Livestock farming provides needs for my family as it does for others. Sioux City has been blessed with many young farmers being able to start agriculture because of livestock industry.

(An article from the Des Moines Register was passed out to Commissioners regarding the livestock industries in Sioux City.)

LEROY MERK, ICCI member in Audubon County said the odor is so strong! My lungs burnt so bad and I broke out in cold sweats for two days. Livestock industries are effecting people's health. I support the 15 ppb standard for hydrogen sulfide. We need rules in place!

GARY LARSEN, farmer in Audubon County and member of ICCI read from the Audubon County Board of Health Resolution #9-03. He read that the ambient air quality standards for hydrogen sulfide, ammonia and odor are necessary to protect the public health. Whereas, Senate Joint Resolution 5 nullified the IDNR's ambient air quality standards for hydrogen sulfide and ammonia. Whereas, the joint University of Iowa/Iowa State University CAFO air quality study called for ambient air quality standards for hydrogen sulfide at 15 ppb at residence or public use area. Whereas, the joint University of Iowa/Iowa State University CAFO air quality study called for ambient odor limits 7.1 dilution rate at a residence or public use area. Now, therefore be it resolved that the Audubon County Board of Health and endorses state-wide ambient air quality standards for hydrogen sulfide, ammonia and odor based the joint University of Iowa/Iowa State University CAFO air quality study – Iowa Concentrated Feeding Operations Air Quality Study. A copy of this resolution will be forwarded to the EPC, DNR Director Jeff Vonk, Governor Vilsack and to the state legislators serving this county.

(A copy of the comments can be located in the Department's Record Center.)

SHARLENE MERK, family farmer in Audubon County and member of ICCI said that within the last six years, 3 hog confinements have been built with the total of 12,000 hogs that live within a half mile from our home. We have lived on our farm for 47 years. We built it with the intentions of retiring there. The flies and odor are horrible. It is hard to go about daily work with burning eyes, sore throats, nausea, loss of balance and always chronic fatigued. Everybody needs and deserves fresh clean air. I support the strong clean air rules based on our own university studies. I support the DNR's originally proposed hydrogen sulfide standard of 15 ppb.

DONNA LARSON, member of ICCI and farmer from Exira said that Bob Paplain, Enforcement and Compliance Division Director of the EPA said in an April 28th meeting in Des Moines that the joint university study was the best science out there and that the EPA was using the study to take action against large scale factory farms against the nation. We have large facilities in Iowa that are affecting people's health. If the EPA in Washington, DC feels that the joint study is

good enough to use around the country, it should be good enough for the DNR to use in Iowa. I propose that you vote to set the hydrogen sulfide at 15 ppb and ammonia at 150 ppb and the odor ratio 7 to 1 dilution rate at a separated location as recommended by the university air quality study.

DAVE STRUTHERS, farmer from Collins, Iowa said that he has a family farm corporation. As Mr. Gieselmann quoted in his presentation, "we are trying to establish what the health level is." The DNR is proposing to the Commission that we have 30 ppb for only 7 days. Whereas the acute concentration from Mr. Newton's presentation said that it could be 70 ppb for 14 days. Why 30 ppb? I think it sends the wrong message to people that 30 ppb is a health detriment.

NORMA HAUCK, member of ICCI and resident of Humboldt County said that she supports the joint university study recommendations. If factory farm owners want to raise hogs the factory style, then they should be regulated. People's health is involved and should not be compromised.

BOB UETZ, from Boone County, Iowa said that there are 4 hog operations within a mile and a half. The three to the south of me are family farm operations. They are good neighbors and none of them are a problem. The hog factory to the east of me has a constant stench. No one lives there. When the wind comes from the east, the smell is miserable. If someone chooses to operate like a factory, they should be regulated like one.

LARRY GINTER, member of ICCI said that he revisited the joint university study. The term health hazard was used to describe environmental or surrounding air problems associated with CAFOs or large scale factory farms. I urge you to support the joint university study of 15 ppb for hydrogen sulfide and 150 ppb for ammonia at the neighbor's house. I personally believe that before any new CAFO is allowed to be built, an environmental impact study should be required. Also a health risk assessment by the county board of health should be undertaken in the neighborhood so that the builders know the risk and it's moral responsibilities. The DNR's proposal of 30 ppb is caving into factory farm bureau and agribusiness factory farms.

TOM RATEFORD, member of ICCI said that we have studied this forever, let's pass this. We could study this for another five years and still do nothing. Supports the 15 ppb hydrogen sulfide standard.

VIOLA FAUST, member of ICCI and family farmer from Dexter said that she wants the big factory farmers to be regulated at the 15 ppb for hydrogen sulfide.

BETTY LITTLE, member of ICCI from Bedford said that there are 7 corporate owned hog CAFO's within one-half to two miles from our farm. We were here first. We can not leave windows open when we are gone or at night when we go to bed. The stench can be so unbearable. These CAFO's must be more considerate of their neighbors and should be forced to control the bad air that they are releasing. We need clean air standards now. I support the joint university study.

RONALD REEDY, farmer from Humboldt, Iowa. I'm a cattle feeder and I built a confinement in 1976 for 640 head deep pit. I have worked in this confinement almost everyday for over 25 years and have no ill effects. I do not support the 30 ppb (1-hour ave.) for hydrogen sulfide. I believe the DNR needs to complete their field study first in order to determine if there is a health risk from livestock facilities at separated locations. I would like to see the EPC reject this rulemaking until the field study is complete. If this is a true health problem then it should apply to all industries not just to livestock confinements.

SCOTT BECKER, representing the Farm Bureau said that he does not support the 30 ppb (1-hour ave). This sends a false message that it is a public health risk. I would like to see a higher level until it is scientifically proven to be a health risk. We shouldn't pass a rule just because it smells, there needs to be scientific proof of health hazards.

TOM DRAUR, from Johnston, Iowa made the following comments:

DNR monitoring: An average of all the hour readings of the 24 test hours would be a more appropriate basis for evaluation.

Exposure Levels: Acute doses are short-term (<14 days) momentary or one-time doses, whereas chronic doses are continuous and/or repetitive. 70 ppb would be a more appropriate exceedence level for the monitoring timeframe established.

Health Effects?: Studies pointed out that insufficient data is available for chronically exposed humans to make a definitive judgement on safe exposure levels, and that further study would be necessary prior to finalizing recommended values. Proposed level was indicated as Minimal Risk Level for sensitive population, not average.

What's in a Name: Health Effect Standard implies a health effect will occur; this not known to be the case with hydrogen sulfide. Perhaps a designation as Emission Testing Screening Level is more appropriate?

Risk vs. Nuisance: The State of Iowa commonly refers to risk evaluations to determine acceptable exposures to compounds – not in this case.

Inconclusive Studies: Exposed to an unknown number of compounds at unknown concentrations for uncertain durations; included total reduced sulfur as well as H₂S, at least.

Focus on Regulation: Regulation focused on H₂S actually a nuisance level determination with a trigger level of H₂S as the indicator compound?

EPA is Studying Issue: Several large producers are participating in a 3-year study of CAFO emissions with EPA in a safe harbor agreement to help determine what federal regulation, including threshold concentrations, might be required for the compounds of interest.

Other States' Exceedence Allowance: Facilities are allowed to exceed the 30 ppb standard twice every 5 days. This permits irrigation of wastewater as an operational choice.

(A copy of his handout can be located in the Department's Record Center.)

ELMER SWANSON, member of ICCI said that he supports the joint university study. If factory farm owners are going to operate like a factory they should be regulated like one. Our public health can not be compromised.

VERDELL JOHNSON, livestock and grain operator from Cleghorn, Iowa said that it seems the livestock industry in Iowa is being targeted. We built an ethanol plant in our area to help retain wealth of our area. The livestock industry is also vital to add value to crops and participate in adding wealth to the state of Iowa. Regulations without complete scientific background push livestock and jobs to some other country or state. Rural Iowa needs to be doing things that might bring swing sets to back yards on farms and revitalize our school systems.

To date, all that the DNR has done is to monitor the air; they have not studied or proven what levels of hydrogen sulfide cause health problems as the legislature asked them to do.

I would petition you not to write a regulation that diminishes agriculture and jobs in Iowa for our younger generations. Therefore, the EPC should reject this rulemaking because the DNR must complete their field study before they set a standard and impose more regulation on animal agriculture.

We can not allow emotional unfounded facts destroy what this state has enjoyed as a major livestock and ag industry in the United States and the world.

(A copy of the comments can be located in the Department's Record Center.)

GEORGE NAYLOR, member of ICCI said that he started farming 28 years ago. Twenty years ago through the Iowa Farm Unity Coalition, we fought a bill that would have leathened the family farm act to let corporate chicken factories in this state and we defeated it. Now Smithfield has taken that law to the Supreme Court and wiped it out, so now Smithfield and Tyson can come into Iowa and build all the big CAFOs that they want. Where we will be in ten years from now? People back twenty years ago, if they would have known that this is where we would be today. They probably would not have endorsed the policies proposed by the Farm Bureau and the commodity organizations. The DNR, EPC and the Department of Public Health needs to represent the people of Iowa and the family farmers. I encourage you to adopt the air quality standards that are supported in the university study.

RON TIANER, farmer from Ft. Dodge and member of ICCI said that in his Corp-production class with Dr. Loren Christian, we talked about the effects of hydrogen sulfide and methane ammonia on workers and hogs in the facilities and those who live nearby them. They know what it will do to them and how it will kill them, it has been there for a long time. If facilities state that they are the best high tech, state of the art facilities and they say don't expect us to have high standards for water and air quality. If they are as good as they say they are, we should expect

high standards. I feel we need to expect them to prove they are as good as they claim, holding high standards. I urge you to adopt the standards supported in the joint university study.

GWEN MCCLINTIC, resident of Stuart and a member of ICCI. I support the strong clean air rules based on the expert and scientific recommendations from both the University of Iowa and Iowa State University study. Odor that takes your breath away is not something that we want to show tourists from across the state or around the world. We oppose any rules that cave into factory farms. We support DNR's originally proposed hydrogen sulfide standard of 15 ppb. We continue to pull for an ammonia and odor standard.

DICK BIRD, from Van Buren County and member of ICCI and Sierra Club. Today Iowa is being faced with an analysis problem with the incredible amount of toxic fumes being pumped into the air and passed onto neighbors from hog factories. These are the same gases that caused a death of a worker in an Iowa CAFO last year. How many people, particularly seniors and young children, need to be sickened by respiratory problems before those who have the responsibility show some leadership in solving the problem? I ask the Commission to reinstate the level recommended by the joint ISU/U of I study of 15 ppb for hydrogen sulfide and continue working on a standard for ammonia and odor.

RICH LEOPOLD, from the Iowa Environmental Council said that the Council, in general, supports the DNR's proposed rule but has concern with some of the specific hydrogen sulfide limits set, methods of hydrogen sulfide monitoring and the timeline along which ammonia and odor rules are proposed. As for the limits, the Council continues to firmly stand behind the joint university study. We believe the revised standard of 30 ppb may not protect public health from chemicals emitted from large confined animal feeding operations. The proposed 1 hour exceedence level and the seven day grace period for exceedences are also quite lean. As to methods of monitoring, having different measurements for a separate location (house, property line) does not seem logical and it makes the system far more difficult to monitor and enforce. It is not consistent with most other states. A consistent ambient standard seems much more appropriate and workable. Our last concern is the timeline with which ammonia and odor are to be dealt with. I continue to urge this body and the DNR to expediate these processes as quickly as possible. In closing, the Council is encouraged to see the progress made with this issue by the DNR and EPC. Please consider our concerns and move forward as soon as possible with implementation.

FEROL WEGNER, member of ICCI read the comments prepared by Phyllis Mains from Van Wert, Iowa. Phyllis states that they know first hand how difficult it is for small family farms. Our neighbors raise small herds of cattle and there are two small dairy farms about three miles from us. When I walk the roads, I smell no odor and I don't get sick. I have been diagnosed with asthma. I don't smoke nor live with a smoker. I get sick when I'm around large confinements. The World Health Organization recently recommended 15 ppb hydrogen sulfide as acceptable to human health, The joint university study also recommends 15 ppb. Please drop the seven day grace period. I urge the DNR and EPC to make a standard that will protect the public health.

Ferol Wenger urged the Commission to consider good clean air rules on behalf of her families health and the citizens of Iowa.

WENDY WINTERSTEEN, from Iowa State University summarized Iowa State University's scientific input on air quality regulations proposed for the state of Iowa. This summary primarily highlights ISU scientific testimony outlined in past documents.

1. Follow Federally Established Health Guidelines

As stated in past discussions with the EPC and the Iowa DNR, *Iowa State University strongly encourages following federally established guidelines for ambient air quality levels published by the Agency for Toxic Substances and Disease Registry (ATSDR)*. The mission of the ATSDR, an agency of the U.S. Department of Health and Human Services, is to serve the public by using the best science, taking responsible public health actions. ATSDR is directed by congressional mandate to perform specific functions that include toxic gases found in the ambient air for specific levels at different duration.

ATSDR lists Minimum Risk Levels (MRLs) of toxic gases designed to be **highly protective for sensitive populations**. The MRLs for hydrogen sulfide are listed by duration and exposure levels:

Acute (1-14 days) continuous exposure

Maximum level: 70 ppb – hydrogen sulfide

Intermediate (>14 days – 364 days) continuous exposure

Maximum level: 30 ppb – hydrogen sulfide

It is crucial to note that data collected by Iowa State University scientists and data readily available from IDNR's monitoring program illustrate clearly that the exposures experienced at residences surrounding livestock and poultry operations are acute in nature. That is, if and when an exposure exists, the duration exists for a short, or acute, period of time (minutes and hours versus days). The federal hydrogen sulfide guideline for an acute exposure to hydrogen sulfide is 70 ppb for a continuous exposure from 1 to 14 days. Therefore, a 24-hour continuous exposure at 70 ppb is considered safe, by a significant safety margin, for sensitive populations.

The EPC will be considering a hydrogen sulfide standard at 30 ppb, with seven 1-hour exceedences allowed. Clearly, this is a more appropriate exposure level than the previously recommended 15 ppb exposure level, but still far removed from the acute exposure levels that actually exist based on Iowa monitoring data. Nevertheless, Iowa State University would support a move to the proposed 30 ppb standard for hydrogen sulfide, which agrees with prior testimony from ISU that requested a hydrogen sulfide standard of at least 30 ppb.

2. Protect All Iowans by Avoiding Source – Specific Health Standards

Although the Iowa Concentrated Animal Feeding Operations Air Quality Study – prepared by Iowa State University and University of Iowa scientists – was initiated with agricultural issues in mind, it became evident that guidelines were needed to protect the health of all sensitive population to hydrogen sulfide exposure. The guidelines established in the report have their

basis with ATSDR, in which guidelines are given to protect sensitive populations, regardless of the source for hydrogen sulfide. Iowa State University believes it is inappropriate to target a single industry – agriculture – for a human health-based standard designed only to protect citizens living in the vicinity of these emission sources. *The purpose of the ISU-UI study was to establish recommendations to protect all citizens in the state of Iowa, not just those living near agricultural sources.*

3. Adhere to Full Data Integrity in Sampling

Because the proposed hydrogen sulfide standard under consideration by EPC does not strictly adhere to ATSDR guidelines related to exposure time and levels of air quality that constitute a risk to humans, Iowa State University scientists believe it is extremely important that an accurate definition of a 1-hour time-weighted average (TWA) be enforced. A hydrogen sulfide set at 30 ppb represents ATSDR's defined limit for an intermediate exposure – defined as a continuous exposure for 14 – 365 days. That is, according to ATSDR guidelines, a sensitive individual could be exposed to 30 ppb levels of hydrogen sulfide for a minimum of $14 \times 24 = 336$ hours with no detrimental effects. The proposal under consideration is allowing no more than 7 hours of exposure at this level. The state of Iowa would be adopting a very strict standard for hydrogen sulfide in terms of exposure duration. In essence, agricultural operations will be tested at a level that far exceeds any federal requirement for the protection of human health. Therefore, Iowa State University scientists strongly recommend that determination of an hourly average for any day be based on 100% data integrity – the full 60 minutes. This recommendation should replace the current sampling manual requirement of at least 45 minutes of valid data to be considered acceptable as a 1-hour TWA.

4. Avoiding “One Size Fits All” Mitigation Strategies

It is Iowa State's understanding that current monitoring locations will be used to assess in general what mitigation strategies, if any, will be required for all “like” production systems. Iowa State University opposes this notion of a “one size fits all” approach to apply across the spectrum of agricultural operations existing in the state of Iowa. Producers should be assessed on how well they manage their specific operations and given credit, as warranted, for their performance.

(A copy of the comments can be located in the Department's Record Center.)

MARY CARTER, from Fairfield, Iowa made three points regarding the Air quality standards.

- 1) Please be open and listen to the citizens of Iowa.
- 2) Please look at the research. Listen to the 27 scientists. The University of Iowa health experts still support 15 ppb.
- 3) I love the state of Iowa. Everyone has the right to make a living as long as it doesn't effect others in a harmful way.

KATHLEEN JOHNSON, representing ICCI said that she wished we would stick with the 15 ppb for hydrogen sulfide. I feel you are caving into the 30 ppb. If you go with the 30 ppb, please make the time limit very small. The seven day grace period scenario scares me. I implore you to do the very best.

STACY NOE, from the Iowa State Dairy Association said that you are being asked today to adopt a standard based primarily on a single non replicated study in South Sioux City, Nebraska. Our coalition believes finding material and adverse health effect from a 30 ppb (1-hour) exposure dosage still does not meet legislative intent. While there is no deadline requiring you to adopt any standard today. If it must be adopted, the ICA and the Coalition urge you to adopt the ATSDR standard for now and direct the DNR to continue the field study.

MIKE BLASER, representing the AgriBusiness Association of Iowa, which is a member of the Iowa Air quality coalition. To put the proposal before you in context, ATSDR's most restrictive acute numbers would say that exposure of up to 70 ppb for between 24 and 336 continuous hours does not pose an adverse health effect even to sensitive populations, that number also includes a safety factor of 30. According to the DNR and Dept. of Public Health, the two key scientific underpinnings for the standard you are considering today are 1) the South Sioux City study and 2) the California standard. The South Sioux City study was not a dose of response study. It was a correlation between H₂S levels over 30 ppb and often times over 90 ppb. The authors of the study can see that it has major limitations and also state the further analysis and replication in other exposed communities is needed to confirm findings. The California standard is clearly an odor nuisance standard, its based on the assumption that five times the odor detection threshold of 80 ppb is an annoyance level, not a public health level. According to California's review of that standard, 83% of the population can actually smell H₂S at 30 ppb and approximately 40% population would be annoyed by that odor. This means at the level proposed 17% of the population can not detect the smell and 60% would not be annoyed, yet that's the other basis for today's recommendation. One not-replicated study and a California nuisance odor standard is a shaky foundation for this Commission to base its standard at 30 ppb. On half of AAI, I ask that you either adopt the ATSDR standard for hydrogen sulfide or defer the consideration of the standard today, let the field study continue and allow additional research and evaluation of hydrogen sulfide by ATSDR to be completed.

LEW OLSON, from the House of Republic Caucus Staff presented the following information.

Summary of Threshold Values developed by applying safety factors, uncertainty factors and/or modifying factors to No Observable Adverse Effect Levels found in human and animal studies.

Threshold Value	Duration of Exposure	Value	Health effect endpoint
MRL	Intermediate	0.03 ppm, 30 ppb (42 µg/m ³)	Health effects in mice
MRL	Acute	0.07 ppm, 70 ppb (98 µg/m ³)	Respiratory effects in people with asthma
RfC	Subchronic	0.0007 ppm, 0.7 ppb (1 µg/m ³)	Inflammation of the nasal mucosa
REL	Chronic	0.008 ppm, 8 ppb (10 µg/m ³)	Respiratory effects in animals

Corrosion of Materials and Effects on Vegetation and Animal life

Hydrogen sulfide in air may attaché and corrode copper, silver, zinc, lead, aluminum, iron and other metals. The corrosive effect, evident as rust or tarnish, has been demonstrated on metals exposed to levels of 0.01 ppm for 30 days. Copper may be the most sensitive metal and copper because of the importance of electronic equipment reliability. Increased moisture in the air increases corrosion. Some states have proposed lower standards for areas with higher relative humidities. For example, Nebraska proposed a standard of 0.01 ppm 30-day for relative humidity < 60% and 0.005 ppm when relative humidity is > 60% based on welfare effects (preventing corrosion to structures). These standards are lower than Nebraska's health-based standard of 0.1 ppm for 30 minutes. The State of Pennsylvania based their welfare standard of 0.005 ppm on the effect of darkening exterior lead based paint (Kaderly 1997).

Although hydrogen sulfide has adverse effects on crops and vegetation, corrosion effects occur at lower levels than those damaging vegetation so standards set to protect from corrosion protect vegetation as well.

State Standards, Guidelines

State standards have been derived for health effects, odor, or nuisance or welfare effects.

State	Concentration in ppm	Concentration in $\mu\text{g}/\text{m}^3$ ^b	Averaging Time
Alabama	20		30 minutes
Alaska	0.035		30 minutes
Arizona	0.08		1 hr., welfare ^a
	0.13		1 hr., welfare
California	0.03	42	1 hr., welfare, nuisance
Colorado		1.42	1 hr. welfare
Delaware		0.06	3 minutes, health and nuisance

- A welfare standard or guideline is developed for nuisance effects, crop damage or other effects rather than health effects in people.
- Many of these values were compiled by ATSDR in their Toxicological Profile (1999). Supporting documentation for many was not available. Individual states were not contacted to verify the accuracy of the values reported by ATSDR.
- Reported by (Kaderly 1997) as a standard adopted in 1992.
- Reported in Filer Township Human Health and Safety Committee (1997).
- ATSDR (1999) reported a 3 minute standard of 0.1 ppm for Oklahoma.

Occupational Standards

Occupational standards have been established for short-term high level exposures to hydrogen sulfide. OSHA has established an acceptable ceiling concentration of 20 ppm for hydrogen sulfide in the workplace with a maximum level of 50 ppm allowed for a maximum of 10 minutes time. OSHA's Permissible Exposure Limit (PEL) is 10 ppm averaged over an 8 hour work shift. OSHA's Short Term Exposure Limit (STEL) is 15 ppm for any 15 minute period (ATSDR

1999). NIOSH has set a recommended exposure limit ceiling value of 10 ppm, 15 mg/m³ for 10 minutes exposure (NIOSH 1994).

The American Conference of Governmental Industrial Hygienists (ACGIH) threshold limit value, time weighted average is 10 ppm.

Conclusions

The critical effects or effects that occur at the lowest concentration of hydrogen sulfide and affect the most sensitive system in the body are probably neurological effects. What exposure concentrations can cause these effects in sensitive people is unclear. Neurological effects, especially neurological effects on the developing fetus, have not been studied adequately at low exposure concentrations and there is a lack of information from which to derive threshold levels for sensitive neurological endpoints. Respiratory effects and eye irritation are better demonstrated but appear to occur at higher concentrations than effects like headache and fatigue. Inflammation of the nasal mucosa was judged by the EPA to be the best effect for assessing health risk from inhalation of hydrogen sulfide.

Case studies and epidemiological studies must be interpreted carefully due to many confounding factors, biases, and multiple exposures. It should be recognized that people in epidemiological studies were exposed to a mixture of toxicants. Animal studies are conducted under controlled conditions but extrapolating health effects observed in animals to health effects expected in humans is uncertain. Health-based air standards or values like the EPA's RfC are generally derived by applying safety factors of 10 for protection of sensitive people or to account for the variability in sensitivity in a population are applied. The following is a brief summary of threshold type values reported in the literature.

- A LOAEL of 2 ppm was reported by Jappinen et al. (1990) for respiratory effects. A standard derived from Jappinen et al.'s (1990) study of adult asthmatics using a factor of 10 to help account for sensitive individuals and a factor of 10 for using a LOAEL rather than a NOAEL, might be as high as 0.02 ppm or 20 ppb. This might not protect child asthmatics that might be more sensitive than adults and would not be protective for neurological effects.
- To protect from respiratory effects the EPA derived an RfC, used for assessing risk from superfund sites, of 0.001 mg/m³ (0.0007 ppm) or 1 µg/m³ (0.7 ppb) (IRIS 2000).

The Literature Review of the Health Effects Association with the Inhalation of Hydrogen Sulfide from Idaho Department of Environmental Quality can be viewed at www.deq.state.id.us/air/hydrogensulfide_litreview

(A copy of the comments can be located in the Department's Record Center.)

**FINAL RULE: CHAPTER 32 “ANIMAL FEEDING OPERATIONS FIELD STUDY”
CONTINUED**Follow Up on Public Comment:

Wayne Gieselman said that Dennis Alt, Water Supply will be checking up on the Underground Storage Tank situation in Silver City as mentioned by Mrs. Millard.

One thing staff checked on while public comment was being made dealt with the Nebraska standard. It is an ambient standard and is only applied at the locations where people live.

Sean Fitzsimmons explained California's air standard. It is an ambient air standard and it applies anywhere off the property from the person emitting the population. It's also a one time standard at 30 ppb/1 hour. The reason Iowa is proposing the 7 time exceedence is to allow for spreading of manure.

Wayne Gieselman said that the Department has 10 monitors located at the largest facilities around the state and for a species that's out there, as with compliance with the statute. We have to be 100 meters from the house or separated location. We can't go any closer than that separation distance, which makes things difficult.

Donna Buell and Francis Thicke both stated their concern that if we are following other state standards then why are we not using the 30 minute average, rather than the proposed 1-hour average.

Motion for Amendment

<i>Francis Thicke made the motion to change the 1-hour average concentration to 30-minute average concentration. Seconded by Donna Buell.</i>

Sean Fitzsimmons said that the lowest averaging period with EPA uses to collect data is 1- hour, so far all of our data has been collected with the 1-hour averaging period. If we start to collect, you can deduce based on the 1-hour average with the 30-minute averages, however to comprise that out there's just no way do it.

Lori Glanzman has concerns that we are not fulfilling the legislative intent, since they stress the fact that the field study must be complete in order to set the correct standard or to see if there even needs to be a standard based on the data collected by the field study. Why are we moving forward without a complete field study?

Jeff Vonk said that the Department was informed to go out and determine a level, in our field study, at which this becomes a health effect. This Department is not a public health department. We do not have the expertise or ability to determine at what point a standard becomes a public health risk. Our Department relies on the literature review done by the Universities, subsequent research that has been provided to us and very importantly in this stage, the opinion of our state Department of Public Health. They have clearly laid out what they believe is an appropriate standard. (30 ppb 1-hour average) I believe it's important at some point to take the best information that we have to us, collectively, set the bar, continue our field study, which is

basically a monitoring study, not a health study. We have already taken the path of 15 ppb to the legislature and that was not acceptable, so we are coming back with a different proposal. You have the opportunity to modify these on behalf of the citizens. That's your role. As a Department we have used our best judgement as to where we should start, given the university report of two years ago, that was a consensus report, no longer is as we have heard again today.

Tom Newton, Department of Public Health said that he does feel comfortable with the 30 ppb 1-hour average would be protective of public health.

Roll call vote was taken for the motion for an amendment as noted above.

Roll call vote went as follows: Donna Buell – aye; Francis Thicke – aye; Terry Townsend – nay; Heidi Vittetoe – nay; Jerry Peckumn – aye; Lisa Davis Cook – aye; Lori Glanzman – nay; Kathryn Murphy – nay. Motion fails.

Motion was made by Donna Buell to adopt the rules as recommended. Seconded by Lisa Davis Cook. Roll call vote went as follows: Donna Buell – aye; Terry Townsend – aye; Francis Thicke – aye; Jerry Peckumn – aye; Lisa Davis Cook – aye; Lori Glanzman – nay; Heidi Vittetoe – nay; Kathryn Murphy – nay. Motion carried.

APPROVED AS PRESENTED

FINAL RULE – AMEND IOWA ADMINISTRATIVE CODE 567—CHAPTER 118, “DISCARDED APPLIANCE DEMANUFACTURING”

Jeff Myrom, Deputy Bureau Chief of the Energy & Waste Management Bureau presented the following item.

The Commission is requested to approve the Final Rule regarding amendments to IAC 567—Chapter 118. The changes clarify existing administrative rules and make the rules consistent with federal regulations. The revisions do not substantially change any requirements.

The final rule changes include:

- Requiring as part of the permit application documentation that the facility meets local zoning requirements.
- Striking the requirement that all generators of sodium chromate obtain an EPA identification number, in order to be consistent with federal regulations.
- Correcting references to the Code of Federal Regulations.
- Removing the provision that allows for the storage of mercury for one year, in order to be consistent with federal regulations.

A public hearing was held on June 2, 2004, at 1:00 P.M. in the Fourth Floor Conference Room of the Wallace State Office Building. At the hearing, two persons commented on the proposed rules. A responsiveness summary is attached. Due to comment received, one change was made to the proposed rules; Item 3 in the NOIA has been rescinded from the Final Rule. This change would have allowed an appliance demanufacturer to obtain a permit, with conditions, prior to completing a Department-approved training course.

Motion was made by Lisa Davis Cook to approve the rule as presented. Seconded by Lori Glanzman. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE – ADOPT NEW IAC 567—CHAPTER 122 “CATHODE RAY TUBE DEVICE RECYCLING”

Jeff Myrom, Deputy Bureau Chief of the Energy & Waste Management Bureau presented the following item.

The Commission is asked to approve Final Rule - New IAC 567—Chapter 122 “Cathode Ray Tube Recycling”. This administrative rule chapter was brought before the EPC for Notice of Intended Action (NOIA) at the April 2004 meeting. At that time the proposed chapter was titled “Electronics Recycling”, however, in response to public comment received the chapter has been more precisely renamed “Cathode Ray Tube Device Recycling”.

These rules are intended to satisfy Iowa Code 455D.6(7), in which the Iowa Legislature directed DNR to implement rules for the recycling of electronics and the disassembly and removal of toxic parts from electronics.

A public hearing for these rule amendments was held on June 1, 2004. Dan Mickelsen, a representative of the Waste Commission of Scott County, was the only attendee. A responsiveness summary is attached as some changes were made to the proposed chapter as a result of those comments. Those changes pertain to renaming the chapter, clarifying definitions and terms, and explaining the meaning of properly permitted.

Motion was made by Kathryn Murphy to approve the rule as presented. Seconded by Terry Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE – RESCIND IAC CHAPTERS 567-215 “WASTE TIRE MANAGEMENT COUNTY GRANT PROGRAM,” 567-216 “REGENTS TIRE-DERIVED FUEL PROGRAM,” AND 567-217 “WASTE TIRE END-USER INCENTIVE PROGRAM”

Jeff Myrom, Deputy Bureau Chief of the Energy & Waste Management Bureau presented the following item.

The Commission is requested to approve the final rulemaking to rescind Iowa Administrative Rule 567—Chapters 215 “Waste Tire Management County Grant Program,” 216 “Regents Tire-Derived Fuel Program,” and 217 “Waste Tire End-User Incentive Program.”

House File 2549 passed by the 2004 General Assembly repealed the following Iowa Code sections.

- ◆ 455D.11D “Waste Tire Management – Grant Program”
- ◆ 455D.11E “Use by regents institutions of tire-derived fuels and other beneficial uses of waste tires”
- ◆ 455D.11F “End-users awarded moneys for using processed waste tires”

The legislation also reallocates any remaining funding in the above programs to the Waste Tire Management Fund on July 1, 2004. Therefore, the rules in Chapters 215, 216 and 217 are no longer valid and no longer funded after July 1, 2004.

House File 2549 establishes broader authority for how the Department of Natural Resources allocates funds in the future from the Waste Tire Management Fund. The bill provides annual allocations to the Waste Tire Management Fund for program administration, waste tire-related compliance checks and inspections, public education and awareness initiatives, market development activities and waste tire stockpile abatement. The Commission will be asked to approve new rules supporting these new allocations later in fiscal year 2005 after the Department completes and internal and external program improvement review.

A public hearing was held on June 29, 2004. No written and no oral comments were received.

Lisa Davis Cook mentioned that it would be beneficial for us to see another tire presentation.

Motion was made by Lisa Davis Cook to approve the rule as presented. Seconded by Lori Glanzman. Motion carried unanimously.

APPROVED AS PRESENTED

STATE OF IOWA PUBLIC DRINKING WATER PROGRAM - 2003 ANNUAL COMPLIANCE REPORT

Dennis Alt, of the Water Supply section presented the following item.

The Department is submitting the *State of Iowa Public Drinking Water Program 2003 Annual Compliance Report* to the Environmental Protection Commission for information purposes.

The Safe Drinking Water Act (SDWA) Amendments of 1996 require the Department to issue an annual report of the SDWA violations in the state. This report fulfills the reporting requirement in Iowa for the 2003 calendar year.

The data indicates that both the number of health-based standards violations and major monitoring/reporting violations decreased from 2002. Also, the numbers of systems with violations decreased from 2002.

This report was prepared by the Department's Water Supply Section in the Water Quality Bureau of the Environmental Services Division. Development of the report was accomplished through the use of the state water supply database.

The printed report was provided to EPA on June 11, 2004. An electronic copy was provided to the Governor, legislative officials, EPA, and members of the SDWA Advisory Group.

The electronic report is available on the department's website at this address: <http://www.state.ia.us/epd/wtrsupply/report/report.htm>.

Copies of the report are also available to the public upon request.

INFORMATIONAL ONLY

PROPOSED CONTESTED CASE DECISION – NATURAL PORK PRODUCTION II, LLP

Michael P. Murphy, Chief of the Legal Services Bureau presented the following item.

On April 14, 2003, the department issued Administrative Order No. 2003-AFO-26 to Natural Pork Production II, LLP. That action required the company to comply with requirements relating to capacity at its swine confinement facility and pay a penalty of \$10,000. That action was appealed by the company, and the matter proceeded to administrative hearing on February 17, 2004. The Administrative Law Judge issued a Proposed Decision on June 18, 2004. The decision affirms the Order.

Either party may appeal the Proposed Decision to the Commission. In the absence of an appeal, the Commission may decide on its own motion to review the Proposed Decision. If there is no appeal or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

NO ACTION TAKEN

PROPOSED CONTESTED CASE DECISION – RICHARD JUHL

Michael P. Murphy, Chief of the Legal Services Bureau presented the following item.

On March 24, 2004, the department issued Administrative Order No. 2004-AQ-16/2004-SW-13 to Richard Juhl. That action required him to comply with requirements relating to open burning and solid waste disposal, and pay a penalty of \$4,700. That action was appealed, and the matter was scheduled for an administrative hearing on July 26, 2004. On June 16, 2004 the department filed a motion for a default judgment. The Administrative Law Judge issued an Entry of Default on June 25, 2004. The decision dismisses the appeal and affirms the Order.

Mr. Juhl may move to vacate the entry of default. In the absence of such motion, the Commission may decide on its own motion to review the Proposed Decision. If there is no motion or review of the Proposed Decision, it automatically becomes the final decision of the Commission.

NO ACTION TAKEN

MONTHLY REPORTS

Wayne Gieselman, Division Administrator, Environmental Protection Division, presented the following items.

Some reports are missing for this month. They will be included at next month's meeting.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report - Missing
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report - Missing
6. Administrative Penalty Report - Missing
7. Attorney General Referrals Report - Missing
8. Contested Case Status Report - Missing
9. Waste Water By-passes Report

**Iowa Department of Natural Resources
Environmental Services
Report of WW By-passes**

During the period June 1, 2004 through June 30, 2004, 7 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
<i>October '03</i>	8(5)	0.182	0.010	3	1(0)
November '03	4(3)	0.701	0.264	2	0(0)
December '03	11(4)	0.209	0.065	2	0(0)
January '04	5(3)	0.479	0.165	3	0(0)
February '04	10(4)	0.269	0.032	2	0(0)
March '04	7(7)	0.524	0.022	3	0(0)
April '04	8(8)	0.608	0.072	1	0(0)
May '04	9(9)	0.499	0.042	4	0(0)
June '04	7(6)	0.038	0.001	2	0(0)
July '03	5(6)	0.496	0.580	2	0(0)
August '03	2(9)	0.354	0.054	0	0(0)
September '03	4(5)	0.177	0.006	1	0(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
3	0	2	0	1	1

**Iowa Department of Natural Resources
Environmental Services Division
Report of Hazardous Conditions**

During the period June 1, 2004, through June 30, 2004, 75 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Substance Mode

Month	Total Incidents	Agri-chemical	Petroleum Products	Other Chemicals	Transport Facility	Fixed	Pipeline	Railroad	Fire	Other*
October	73 (55)	11 (4)	45 (40)	17 (11)	21 (18)	41 (32)	2 (1)	1 (2)	3 (0)	5 (2)
November	69 (58)	9 (13)	41 (30)	19 (15)	20 (19)	38 (36)	1 (0)	1 (0)	1 (1)	8 (2)
December	51 (41)	10 (2)	29 (28)	12 (11)	21 (12)	27 (25)	0 (1)	0 (2)	1 (0)	2 (1)
January	44 (41)	7 (6)	25 (17)	12 (18)	9 (12)	32 (25)	2 (1)	0 (2)	1 (0)	0 (1)
February	41 (39)	5 (1)	20 (29)	16 (9)	13 (11)	24 (18)	1 (1)	1 (6)	0 (0)	2 (3)
March	71 (39)	9 (5)	38 (23)	24 (11)	21 (8)	47 (25)	0 (1)	1 (2)	0 (0)	2 (3)
April	99 (79)	44 (30)	42 (34)	13 (15)	30 (23)	63 (45)	0 (1)	3 (1)	0 (2)	3 (7)
May	60 (79)	16 (25)	36 (43)	8 (11)	16 (29)	37 (40)	0 (1)	2 (1)	0 (1)	5 (7)
June	75 (76)	17 (13)	42 (49)	16 (14)	24 (35)	42 (28)	1 (0)	0 (2)	1 (2)	7 (9)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	583 (507)	128 (99)	318 (293)	137 (115)	175 (167)	351 (274)	7 (7)	9 (18)	7 (6)	34 (35)

(numbers in parentheses for same period last year)
Total Number of Incidents Per Field Office This Month.
and

*Other includes dumping, theft, vandalism
unknown

1	2	3	4	5	6
17	15	9	6	15	13

**Iowa Department of Natural Resources
Environmental Services Division
Report of Manure Releases**

During the period June 1, 2004, through June 30, 2004, 1 report of manure releases was forwarded to the central office. A general summary and count by field office is presented below.

Month	Total	Feedlot Incidents Impacts	Confinement Application	Land	Transport Water	Hog	Cattle	Fowl	Other	Surface
October	8 (10)	0 (0)		2 (5)	2 (1)	2 (4)	6 (9)	0 (1)	0 (0)	0 (1)
November	5 (12)	0 (0)		2 (4)	2 (3)	1 (5)	5 (12)	0 (0)	0 (0)	0 (0)
December	4 (5)	0 (0)		2 (1)	0 (0)	2 (3)	3 (3)	0 (0)	1 (1)	1 (0)
January	1 (3)	0 (0)		1 (2)	0 (0)	0 (0)	1 (2)	0 (0)	0 (0)	0 (1)
February	1 (1)	0 (0)		0 (1)	1 (0)	0 (0)	1 (1)	0 (0)	0 (0)	0 (1)
March	5 (1)	1 (0)		0 (1)	0 (0)	3 (0)	4 (1)	0 (0)	0 (0)	1 (0)
April	10 (3)	0 (0)		4 (2)	4 (0)	2 (0)	7 (1)	3 (1)	0 (0)	5 (0)
May	2 (7)	0 (0)		1 (5)	0 (1)	1 (1)	2 (7)	0 (0)	0 (0)	0 (1)
June	1 (4)	0 (0)		0 (3)	0 (0)	1 (1)	1 (3)	0 (0)	0 (1)	0 (1)
July	0 (0)	0 (0)		0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)		0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)		0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	37 (46)	1 (0)		12 (24)	9 (5)	0 (0)	30 (39)	3 (2)	1 (2)	7 (5)

(numbers in parentheses for the same period last year)
Total Number of Incidents Per Field Office This Month.

1	2	3	4	5	6
0	0	1	0	0	0

Monthly Variance Report – June 2004						
Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	Alliant Energy-Ottumwa	Air Quality		Permit Requirements	Approved	06/01/04
2	Cambrex Charles City, Inc.-Charles City	Air Quality		Permit Requirements	Approved	06/17/04
3	Cedar Falls Utilities-Cedar Falls	Air Quality		Permit Requirements	Approved	06/25/04
4	First Christian Church-Pottawattamie County	Wastewater Construction	Ehrhart, Griffin, & Associates	Site Separation	Approved	06/09/04
5	Stanwood, City of	Wastewater Construction	Shoemaker & Haaland Engineers	Directional Boring, Sewer Slope	Approved	06/29/04
6	Wayland, City of	Wastewater Construction	Garden & Associates	Manhole Spacing	Approved	06/18/04
7	Cedar Falls, City of	Flood Plain	Shuck-Britson, Inc.	Freeboard	Approved	06/15/04
8	Isle of Capri-Clayton County	Flood Plain	Jacob Bernhardt, Owner	Protection Level	Approved	06/18/04
9	Pella Municipal Power Plant	Wastewater Operation	Thompson Environmental Consulting, Inc..	Water Quality Standards	Approved	06/22/04
10	Kossuth County Landfill	Solid Waste		Financial Assurance Requirements	Approved	06/17/04
11	Diamond Eagle Village-McGregor	Watersupply Construction	IIW Engineers and Surveyors	Construction Materials	Approved	06/11/04
12	Farmers Fresh Poultry-Kalona	Watersupply Construction	MMS Consultants, Inc.	Construction Materials	Approved	06/22/04
13	Grand Junction, City of	Watersupply Construction	Fox Engineering	Siting Criteria	Approved	06/09/04

INFORMATIONAL ONLY

GENERAL DISCUSSION

Jeff Vonk announced his appreciation for the work and efforts put forth by Mike Murphy, Legal Services Bureau Chief for the Department. This is Mike's last meeting as he will be retiring next month.

NEXT MEETING DATES

August 16, 2004 – Lake of Three Fires State Park Lodge -- Bedford, Iowa

The Commission will tour 319 projects, lake dredging and beach monitoring at Lake of Three Fires State Park. More information will be e-mailed to Commissioners and posted on the DNR website.

September 20, 2004

October 18, 2004

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Vice-Chairperson Jerry Peckumn adjourned the meeting at 2:30 p.m., Monday, July 19, 2004.

Jeffrey R. Vonk, Director

Darrell Hanson, Chair

Heidi Vittetoe, Secretary

INDEX**A**

Adjournment, 29
 Adoption of Agenda, 1
 Amend Iowa Administrative Code 567—
 Chapter 118
 Final Rule
 Discarded Appliance
 Demanufacturing, 20
 Animal Feeding Operations Field Study
 Final Rule
 Chapter 32:, 2
 Annual Compliance Report 2003
 State of Iowa Public Drinking Water
 Program, 23
 Appointment, 4
 Approval of Minutes, 1

B

Barbara Kalbach, 8
 Betty Little, 10
 Betty Millard, 8
 Bob Uetz, 10

C

Call to Order, 1
 Calvin Rozenboom,, 8
 Cathode Ray Tube Device Recycling
 Final Rule
 Adopt new IAC 567—Chapter 122,
 21
 Chapter 32
 Animal Feeding Operations Field Study
 Final Rule, 2
 Commissioners Absent, 1
 Commissioners Present, 1

D

Dave Struthers, 10
 Dick Bird, 13
 Director's Report, 2
 Donna Larson, 9
 Dorothy Franek, 7

E

Elmer Swanson, 12

F

Ferol Wegner, 13
 Final Rule
 Adopt new IAC 567—Chapter 122
 Cathode Ray Tube Device
 Recycling, 21
 Amend Iowa Administrative Code
 567—Chapter 118
 Discarded Appliance
 Demanufacturing, 20
 Chapter 32
 Animal Feeding Operations Field
 Study, 2
 Rescind IAC Chapters 567-215
 Waste Tire Management County
 Grant Program,” 567-216 “Regents
 Tire-Derived Fuel Program,” and
 567-217 “Waste Tire End-User
 Incentive Program”, 22

G

Gary Larsen, 9
 George Naylor, 12
 Gwen McClintic, 13

J

James Berge, 7
 Jeff Reuder, 9

K

Kathleen Johnson, 15
 Kevin Shilling, 8

L

Larry Ginter, 10
 Leonard Baumhover, 8
 LeRoy Merk, 9
 Lew Olson, 16

M

Mary Carter, 15
Mike Blaser, 16
Monthly Reports, 24

N

Natural Pork Production II, LLP
Proposed Contested Case Decision, 23
Norma Hauck, 10

P

Proposed Contested Case Decision
Natural Pork Production II, LLP, 23
Richard Juhl, 24
public participation, 7

R

Rich Leopold, 13
Richard Juhl
Proposed Contested Case Decision, 24
Roger Zylstra, 8
Ron Tianer, 12
Ronald Reedy, 11

S

Sam Carney,, 7
Scott Becker, 11
Sharlene Merk, 9
Stacy Noe, 16
State of Iowa Public Drinking Water
Program
Annual Compliance Report 2003, 23

T

Tom Draur, 11
Tom Rateford, 10

V

Verdell Johnson, 12
Viola Faust, 10

W

Waste Tire Management County Grant
Program,” 567-216 “Regents Tire-

Derived Fuel Program,” and 567-217
“Waste Tire End-User Incentive
Program”
Final Rule
Rescind IAC Chapters 567-215, 22
Wendy Wintersteen, 14